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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,099	11/17/2003	Emil Vulcu	136-03	3268

27569 7590 10/13/2005

PAUL AND PAUL
2000 MARKET STREET
SUITE 2900
PHILADELPHIA, PA 19103

EXAMINER

GEHMAN, BRYON P

ART UNIT PAPER NUMBER

3728

DATE MAILED: 10/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/715,099

Applicant(s)

VULCU ET AL.

Examiner

Bryon P. Gehman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 15 and 17-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 15 and 17-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 20 is finally rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 20 depends from canceled claim 16.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 1 is finally rejected under 35 U.S.C. 102(b) as being anticipated by Thaler (4,700,729). Thaler discloses a storage container (10) for receiving and storing a contact lens comprising an upper chamber (inside 12) having an opening (at 14) through which the contact lens can be placed into the chamber, the upper chamber having a bottom portion having at least one passageway (32) permitting liquid to flow out of the upper chamber, a contact lens supporting device (20-23) on the bottom portion of the upper chamber, the device being a dome-shaped structure (21 or 23) maintaining the contact lens on the bottom portion of the upper chamber while the contact lens is stored in the container and inherently permitting inversion of a contact lens when the contact lens is received in the storage container, and a lower chamber

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(18; inside 18) for containing liquid and having a deformable portion which allows liquid to flow through the passageways in the bottom portion of the upper chamber to the lower chamber such that the contact lens supporting device is free of liquid.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 15 and 17-22 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Thaler and Kobler (3,129,971). Thaler has been discussed in detail above. Kobler discloses an inserting and handling device (11) comprising a main body having an opening and an axial channel extending to a first end of the main body, and a deformable portion (12) which discharges air from the axial channel and upon application of a lesser force permits a vacuum to be formed in the axial channel, a suction cup (14) located at the first end of the main body which leads to the axial channel of the main body, and a vacuum bleed hole (18) on the axial channel, the vacuum bleed hole located such that a user holding the device can seal the vacuum bleed hole on the main body when the main body is deformed and a vacuum is formed permitting the suction cup to grasp an object and release the object when the vacuum bleed hole is unsealed. To provide the container and inserting and handling device

together in combination would have been obvious, as both are disclosed to be employed with contact lens.

As to claims 17-19, Thaler discloses the deformable portion as an accordion-shaped pleated bellows.

As to claim 20, Thaler discloses a dome-shaped structure (23).

7. Claims 15 and 17-22 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Thaler and Cointment (4,238,134) in view of Kobler. Thaler discloses a storage container as explained in detail above. Cointment and Kobler each pertain to an inserting and handling device. Cointment discloses an inserting and handling device comprising a main body having a first end (at 10 and 11) having a first opening, a second end (at 3) having a second opening and an axial channel (18) extending from the first opening to the second opening, and a bulb (3) over the second opening on the second end of the main body which discharges air from the axial channel and upon application of a lesser force permits a vacuum to be formed in the axial channel, a suction cup (2) located at the first end of the hollow body which leads to the axial channel of the main body. Kobler discloses a similar device including a vacuum bleed hole (18) on the axial channel of the main body in communication with the axial channel, the vacuum bleed hole located such that a user holding the device can seal the vacuum bleed hole on the axial channel when the hollow body is deformed and a vacuum is formed permitting the suction cup to grasp an object and release the object when the vacuum bleed hole is unsealed. To provide the container and device together in

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combination would have been obvious, as both are disclosed to be employed with contact lens.

As to claims 17-19, Thaler discloses the deformable portion as an accordion-shaped pleated bellows.

As to claim 20, Thaler discloses a dome-shaped structure (23).

8. Claim 23 is finally rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 22 above, and further in view of Raimondi (5,941,583).

Raimondi disclose a contact lens handling device including a removable cover (56) To employ a cover to modify the handling device of the combination would have been obvious in view of Raimondi in order to protect the device during non-use.

9. Applicant's arguments filed August 24, 2005 have been fully considered but they are not persuasive with respect to Thaler. It is maintained that the dome-shaped structure of Thaler will inherently permit inversion of a contact lens received in the storage container on the dome-shaped structure. The examiner is a wearer of contact lens and lenses are easily inverted during cleaning handling such that the dome-shaped structure of Thaler can and would receive contact lenses in normal or inverted condition interchangeably, intentionally or unintentionally. The contact lens does not comprise part of the structure of the claimed storage container or of the storage container in the combination.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryon P. Gehman whose telephone number is (571) 272-4555. The examiner can normally be reached on Monday through Wednesday from 5:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu, can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

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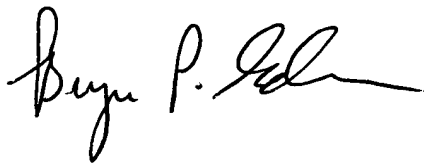
published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Bryon P. Gehman". The signature is fluid and cursive, with a long horizontal stroke at the end.

Bryon P. Gehman
Primary Examiner
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BPG